

IN THE MATTER OF  
STANLEY J. MORGAN

Petitioner

: BEFORE THE  
:  
: HOWARD COUNTY  
:  
: BOARD OF APPEALS  
:  
: BA Case No. 07-034V  
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**DECISION AND ORDER**

The Howard County Board of Appeals convened on April 24, 2008 to hear the petition of Stanley J. Morgan, Petitioner, for a variance to reduce the 10-foot side lot setback to up to 4 feet for a garage addition for a property located in a R-20 (Residential-Single) Zoning District, pursuant to Section 130.B.2 of the Howard County Zoning Regulations.

Board members Albert Hayes, James Walsh, Maurice Simpkins, Kevin Doyle and Michelle James were present at the hearing and Chairman Albert Hayes presided. The Board members indicated that they had viewed the property as required by the Zoning Regulations. Notice of the hearing was advertised and posted as required by the Howard County Code. Barry M. Sanders, Assistant County Solicitor, served as legal advisor to the Board.

The Petitioner was represented by counsel, Thomas Meachum, Esquire. Charles Simms, Esquire, represented Jung Soo Jung in opposition to the petition.

The case was conducted in accordance with Section 2.209 of the Board's Rules of Procedure. The Howard County Code, the Howard County Charter, the Howard County Zoning Regulations, the various agency comments, the General Plan for Howard County, the General Plan of Highways, and the Petition and Plat submitted by the Petitioner were incorporated into the record by reference.

Mark Morgan testified in support of the petition. Jung Soo Jung testified in opposition to the petition through her son, Albert Peal, who acted as her interpreter.

### **FINDINGS OF FACT**

Based upon the evidence presented at the hearing, the Board makes the following Findings of Fact:

1. The Petitioner is the owner of the subject property located in the 1<sup>st</sup> election district on the east side of Argay Circle, about 830 feet southeast of Windflower Drive. The Property is referenced as Tax Map 24, Grid 20, Parcel 1122, Lot 35 (the "Property").
2. The Property is rectangular in shape and contains approximately .488 acres in area. It has about 89.12 frontage feet on Arjay Circle, and widens to 114.86 feet at the rear lot. The southern lot line runs about 197 feet deep, the northern, about 202 feet. A 49' by 26' two-story dwelling sits about 53 feet from the road frontage. Shortly after the house was constructed, the builder added a one-bay, 10-foot wide garage to the south facade. This garage is 12.1 feet wide at its entrance and 12.2 feet wide at the back. The house is accessed from a paved driveway which widens near the entrance. Just to the south of the widened driveway is a large, mature deciduous tree.
3. Vicinal properties are similarly zoned R-20 and all are residential lots improved with single-family dwellings fronting on Arjay Circle.
4. The topography rises modestly toward the rear lot line. The front and rear lawns are landscaped.
5. The Petitioner, the owner of the Property, proposes to construct an attached garage addition that would encroach into the 10-foot side setback up to four feet at the addition's front and up to six feet at its rear. The proposed 8-foot wide addition would create a two-car

garage 22.1-foot wide at the entrance, 22.2 feet wide at its rear, and 32.6 feet deep. The Petitioner has requested a variance from Section 108.D.4.c.(1)(b) of the Zoning Regulations to reduce the required 10-foot side setback to up to 4 feet for the garage addition. Pursuant to Section 108.A. of the Zoning Regulations, "the R-20 District is established to permit single family detached dwelling units at approximately two units per acre. The District reflects the established single-family neighborhood characteristics of many of the stable residential areas of the county."

6. Mark Morgan testified on behalf of his father, who is the Petitioner. Mark Morgan stated that the house was originally constructed without a garage, but that the builder shortly thereafter added a one-car garage. The size of the existing garage is unusually small because the original chimney vent extends in the interior parking area. The existing garage has a 12-foot side setback at the front of the garage to the property line, and a 14-foot side setback at the rear of the garage to the property line. The Petitioner wants to reduce this side setback to 4-feet at the front of the garage and to 6-feet at the rear of the garage by constructing a two-car garage. Mr. Morgan asserted that the 10-foot side setback requirement does not allow enough space for an expansion of his family's single car garage. The proposed garage addition will create a wider and safer two-door garage. This addition will provide more storage space as well as protection for another vehicle and also allow the Petitioner to park additional cars on a paved driveway. The proposed garage addition will be clearly visible and will not block any views by the adjacent properties. The expansion will make the house visibly more consistent and symmetric in relation to the rest of the houses which make up the neighborhood. The new two-car garage will have stucco on the front and sides and a shingle roof that will match the existing garage. Smaller plants and bushes will be placed around the outside of the expanded garage as

well as the existing paved driveway. Mark Morgan submitted exhibits which showed that his father's lot has the second smallest front yard footage width of lots on Arjay Circle and Windflower Drive. Mark Morgan also submitted an exhibit which illustrates the existence of over 30 dwellings on Arjay Circle with two-car garages.

9. Jung Soo Jung testified in opposition to the petition. Ms. Jung stated that the garage addition will be too close to her property, which is located next door. Ms. Jung stated that the distance from her home to the closest point to the common lot line is 19.9 feet. Ms. Jung questioned the accuracy of the Petitioner's property survey. She also believes that the proposed garage addition will necessitate a variance greater than that requested by the Petitioner.

#### **CONCLUSIONS OF LAW**

1. The Property is one of the narrowest in the neighborhood which severely restricts the building envelope of the subject Property. In this case, many dwellings in the neighborhood have two-car attached garages. In order to construct the addition, due to the narrowness of the buildable area of the lot, it is necessary to encroach into the side setback. Consequently, the Board concludes that the Property's narrowness is a unique physical condition that causes the Petitioner practical difficulties in complying strictly with the setback requirement for properties within the R-20 zoning district, in accordance with Section 130.B.2.a.(1).

2. The variance, if granted, would allow for an 8-foot wide addition that would create a two-car garage. The addition will be used for permitted residential purposes and will not change the nature or intensity of the use. At its closest point, the addition, if set back four feet from the side lot line, would be 23.9 feet from the adjacent dwelling. Furthermore, the proposed two-car garage addition is consistent with the other dwellings in the community. Shrubbery will be planted on the side where the variance is being requested. Accordingly, the Board finds that

the variance, if granted, will not alter the essential character of the neighborhood in which the lot is located, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, in compliance with Section 130.B.2.a.(2).

3. The practical difficulty in complying strictly with the setback regulation arises from the narrowness of the Property and was not created by the Petitioner, in accordance with Section 130.B.2.a.(3).

4. The proposed 8-foot wide addition would create a two-car garage 22.1-feet wide at the entrance, 22.2 feet wide at its rear, and 32.6 feet deep. The proposed garage addition will be located in the only practical and feasible area in which to locate a garage addition due to the size and shape of the Property. As such, the Board concludes that within the intent and purpose of the regulations, the variance is the minimum variance necessary to afford relief, in accordance with Section 130.B.2.a.(4).

#### **ORDER**

Based upon the foregoing, it is this 12<sup>th</sup> day of June, 2008, by the Howard County Board of Appeals, **ORDERED**:

That the Petition of Stanley J. Morgan, for a variance to reduce the required 10-foot side lot setback to a maximum of four feet in the R-20 (Residential – Single) Zoning District, is hereby **GRANTED**, subject to the following conditions:

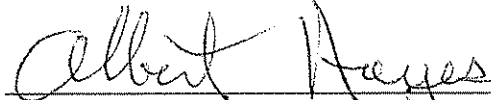
1. The variance shall apply only to the uses and structures as described in the petition submitted and not to any other activities, uses, structures, or additions on the Property.
2. The Petitioner shall comply with all applicable Federal, State, and County laws and regulations.

ATTEST:



Ann Nicholson, Secretary

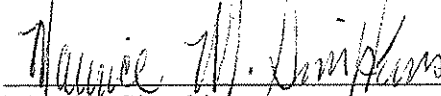
HOWARD COUNTY BOARD OF APPEALS



Albert Hayes, Chairperson

Dissent

James Walsh, Vice-Chairperson

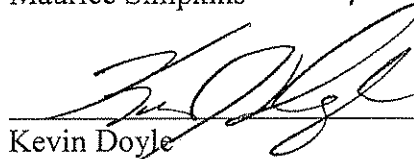


Maurice Simpkins

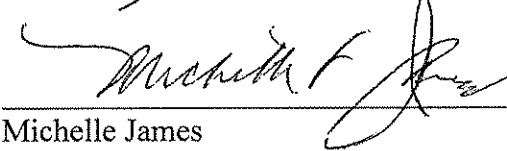
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